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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,418	09/17/2001	Stephen F. Gass	SDT 329	1667
27630	7590	07/27/2004		EXAMINER
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/955,418	GASS ET AL.
	Examiner Boyer D. Ashley	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,9-12,14-19,25 and 26 is/are pending in the application.
 4a) Of the above claim(s) 25 and 26 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,9,10 and 14-19 is/are rejected.
 7) Claim(s) 11 and 12 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/24/04, 4/17/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/1/04 has been entered, wherein claims 1, 9, 11-12, 15, 17, and 19 were amended; claims 25-26 were added. Claims 1, 9-12, 14-19 and 25-26 are pending in the instant application.

Election/Restrictions

2. Newly submitted claims 25-26 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
3. Inventions of claims 25-26 and claims 1, 9-12, and 14-19 are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). For example, the process as claimed can be practiced by another materially different apparatus such as an apparatus not having hydraulic cylinders.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for

prosecution on the merits. Accordingly, claims 25-26 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 9, 10, and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsden, U.S. Patent 4,637,289 in view of Yoneda, U.S. Patent 4,117,752, or Friemann et al., U.S. Patent 3,358,095, and Terauchi, U.S. Patent 4,512,224.

Ramsden discloses the same invention as claimed including: typical up-cut chop saws that move rotatable blades from a position below the work surface to a position above the work surface to cut a workpiece; however, Ramsden lacks the detection system adapted to impart an electrical signal to the blades and to monitor the signal for a change indicated of contact between the user and the blade and a reaction system configured to retract the blade from a position above the work surface to a position below the work surface upon detection of contact between the user and the blade.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of

the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

The modified device Ramsden lacks the reaction system that retracts the blade to an initial position below the work surface upon detection of the user touching the blade; however, Terauchi discloses that it is old and well known in the cutting art to use reaction systems that retract cutting blades upon detection of an undesired condition, such as unwanted contact with the blade, for the purpose of preventing damage to the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the reaction system with the detection/reaction system of the modified device of Ramsden in order to retract the moving blades of the modified device of Ramsden upon detection of contract between the user and the blade to prevent further injury to the user.

As to claim 14, the modified device of Ramsden discloses a blade mounted on a spindle, wherein the spindle and blade are electrically insulated from the frame because in order for the devices of Yoneda, Friemann et al., and Terauchi to function correctly, i.e. detect signal changes on the blade, the blade must be insulated from the frame.

6. Claims 1, 9 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malm, U.S. Patent 3,946,631, in view of Yoneda, U.S. Patent

4,117,752, or Friemann et al., U.S. Patent 3,358,095, and Terauchi, U.S. Patent 4,512,224.

Malm both disclose the same invention as claimed including: typical up-cut chop saws that move rotatable blades from a position below the work surface to a position above the work surface to cut a workpiece; however, Malm lacks the detection system adapted to impart an electrical signal to the blades and to monitor the signal for a change indicated of contact between the user and the blade and a reaction system configured to retract the blade from a position above the work surface to a position below the work surface upon detection of contact between the user and the blade.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

The modified device Malm both lack the reaction system that retracts the blade to an initial position below the work surface upon detection of the user touching the blade; however, Terauchi discloses that it is old and well known in the cutting art to use

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reaction systems that retract cutting blades upon detection of an undesired condition, such as unwanted contact with the blade, for the purpose of preventing damage to the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the reaction system with the detection/reaction system of the modified device of Malm in order to retract the moving blades of the modified device of Malm upon detection of contract between the user and the blade to prevent further injury to the user.

As to claim 14, the modified device of Malm discloses a blade mounted on a spindle, wherein the spindle and blade are electrically insulated from the frame because in order for the devices of Yoneda, Friemann et al., and Terauchi to function correctly, i.e. detect signal changes on the blade, the blade must be insulated from the frame.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 9, 10, and 14-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22

and 26-29 of copending Application No. 09/929,242 in view of Yoneda or Friemann et al. and Ramsden.

Application '242 discloses the invention substantially as claimed including a detection system for detecting one or more dangerous conditions between a person and the cutting tool and a reaction system to retract the cutting tool at least partially away from the cutting region upon detection of at least one of the dangerous conditions by the detection system. Application '242 is directed to a woodworking machine but is silent as to the type and therefore, lacks elements rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface, a detection system adapted to impart an electrical signal to the blade and then from monitoring the signal for changes such as indicative of contact between the person and the blade.

Ramsden discloses that it is old and well known in the art to use up-cut chop saw as woodworking machines having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface for the purpose of making multiple quick cuts in wood. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the detection system and reaction system of application '242 with the device of Ramsden in order to make multiple quick cuts in a piece of wood.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user

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contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

This is a provisional obviousness-type double patenting rejection.

9. Claims 1, 9, 10, and 14-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 09/929,238 in view of Yoneda or Friemann et al. and Ramsden.

Application '238 discloses the invention substantially as claimed including a detection system for detecting contact between a person and the cutting tool and a reaction system to retract the cutting tool at least partially away from the cutting region upon detection of at least one of the dangerous conditions by the detection system. Application '238 is directed to a miter saw instead of a up-cut chop saw having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface, a detection system adapted to impart an electrical signal to the blade and then from monitoring the signal for changes such as indicative of contact between the person and the blade.

Ramsden discloses that it is old and well known in the art to use up-cut chop saw as woodworking machines having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface for the purpose of making multiple quick cuts in wood. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the detection system and reaction system of application '238 with the device of Ramsden in order to make multiple quick cuts in a piece of wood.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

This is a provisional obviousness-type double patenting rejection.

10. Claims 1, 9, 10, and 14-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-24 of copending Application No. 10/052,273 in view of Yoneda or Friemann et al. and Ramsden.

Application '273 discloses the invention substantially as claimed including a detection system for detecting contact between a person and the cutting tool and a reaction system to retract the cutting tool at least partially away from the cutting region upon detection of at least one of the dangerous conditions by the detection system. Application '273 is directed to a miter saw instead of a up-cut chop saw having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface, a detection system adapted to impart an electrical signal to the blade and then from monitoring the signal for changes such as indicative of contact between the person and the blade.

Ramsden discloses that it is old and well known in the art to use up-cut chop saw as woodworking machines having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface for the purpose of making multiple quick cuts in wood. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the detection system and reaction system of application '273 with the device of Ramsden in order to make multiple quick cuts in a piece of wood.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the

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blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

This is a provisional obviousness-type double patenting rejection.

11. Claims 1, 9, 10, and 14-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/643,296 in view of Yoneda or Friemann et al. and Ramsden.

Application '296 discloses the invention substantially as claimed including a detection system for detecting contact between a person and the cutting tool and a reaction system to retract the cutting tool at least partially away from the cutting region upon detection of at least one of the dangerous conditions by the detection system. Application '296 is directed to a miter saw instead of a up-cut chop saw having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface, a detection system adapted to impart an electrical signal to the blade and then from monitoring the signal for changes such as indicative of contact between the person and the blade.

Ramsden discloses that it is old and well known in the art to use up-cut chop saw as woodworking machines having a rotatable blade, at least one motor, at least one

actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface for the purpose of making multiple quick cuts in wood. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the detection system and reaction system of application '296 with the device of Ramsden in order to make multiple quick cuts in a piece of wood.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

This is a provisional obviousness-type double patenting rejection.

12. Claims 1, 9, 10, and 14-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 7, and 20 of copending Application No. 10/051,782 in view of Yoneda or Friemann et al. and Ramsden.

Application '782 discloses the invention substantially as claimed including a detection system for detecting contact between a person and the cutting tool and a

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reaction system to retract the cutting tool at least partially away from the cutting region upon detection of at least one of the dangerous conditions by the detection system.

Application '782 is directed to a miter saw instead of a up-cut chop saw having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface, a detection system adapted to impart an electrical signal to the blade and then from monitoring the signal for changes such as indicative of contact between the person and the blade.

Ramsden discloses that it is old and well known in the art to use up-cut chop saw as woodworking machines having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface for the purpose of making multiple quick cuts in wood. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the detection system and reaction system of application '782 with the device of Ramsden in order to make multiple quick cuts in a piece of wood.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to

use a detection/reaction system which imparts an electrical signal on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

This is a provisional obviousness-type double patenting rejection.

13. Claims 1, 9, 10, and 14-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 09/676,190 in view of Yoneda or Friemann et al. and Ramsden.

Application '190 discloses the invention substantially as claimed including a detection system for detecting contact between a person and the cutting tool and a reaction system to retract the cutting tool at least partially away from the cutting region upon detection of at least one of the dangerous conditions by the detection system. Application '190 is directed to a miter saw instead of a up-cut chop saw having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface, a detection system adapted to impart an electrical signal to the blade and then from monitoring the signal for changes such as indicative of contact between the person and the blade.

Ramsden discloses that it is old and well known in the art to use up-cut chop saw as woodworking machines having a rotatable blade, at least one motor, at least one actuating mechanism to move the blade upward to a position where at least part of the blade is above the work surface for the purpose of making multiple quick cuts in wood.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the detection system and reaction system of application '190 with the device of Ramsden in order to make multiple quick cuts in a piece of wood.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade and if so stop the blade in order to prevent injury to the user.

This is a provisional obviousness-type double patenting rejection.

Allowable Subject Matter

14. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
July 25, 2004

Continuation of Attachment(s) 6). Other: 1449's -3/7/04, 2/9/04, 2/8/04, 315/04.